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Group, Inc., CXO Media, Inc. and Steve Ragan

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RIVER CITY MEDIA, LLC, a Wyoming
limited liability company, MARK
FERRIS, an individual, MATT FERRIS,
an individual, and AMBER PAUL, an
individual,

Plaintiffs,

vs.

No. 2:17-cv-105-SAB

DEFENDANT CXO MEDIA, INC.'S
MOTION TO MODIFY IN PART ORDER
ON MOTION TO COMPEL BASED ON
PLAINTIFFS' COUNSEL'S
WITHDRAWAL OF CERTAIN
DISCOVERY REQUESTS AT HEARING

CXO MEDIA, INC.'S, MOTION TO MODIFY IN PART
ORDER ON MOTION TO COMPEL BASED ON
PLAINTIFFS' COUNSEL'S WITHDRAWAL OF
CERTAIN DISCOVERY REQUESTS AT HEARING
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KROMTECH ALLIANCE CORPORATION, a German corporation, CHRIS VICKERY, an individual, CXO MEDIA, INC., a Massachusetts corporation, INTERNATIONAL DATA GROUP, INC., a Massachusetts corporation, and STEVE RAGAN, an individual, and DOES 1-50,

Defendants.

Without Oral Argument
Hearing Date: April 23, 2018
Spokane, Washington

Defendant CXO Media, Inc. ("CXO") files this Motion to Modify In Part Order on Motion to Compel Based on Plaintiffs' Counsel's Withdrawal of Certain Requests at Hearing as follows:

Plaintiffs' counsel withdrew several of the discovery requests at the hearing on Plaintiffs' Motion to Compel, yet this Court's Order on the Motion to Compel (ECF No. 98) granted all of the requests. Plaintiffs' counsel disclaimed Request No. 3 (which did not have to do with the United States), as well as the portions of Request No. 5 and Interrogatory No. 3 that dealt with the entire United States. *See* Ex. 1, Mar. 15, 2018 Tr. at 15:5-9 ("MR. NETA: Of course. Request for Production No. 3 is 'Produce all documents related to CXO Media's relationship with IDG, Inc.' **We'll concede** – THE COURT: Okay. MR. NETA: **--we don't need that one for now.** THE COURT: All right.") (emphasis added); *id.* at 15:21-16:10 ("MR. NETA: And then Request For Production No. 5. . . . Mr. NETA: '...whether print or online.' We could – **we could**

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1 **tailor that to remove the language ‘in the United States generally’.** THE COURT: All
 2 right. MR. NETA: If – if Your Honor – THE COURT: I really – MR. NETA: -- is trying
 3 to split the baby. THE COURT: All right.”) (emphasis added); *id.* at 16:16-23 (“MR.
 4 NETA: One thing we didn’t talk about, Your Honor, is Interrogatory No. 3. And based on
 5 what you’ve said, in an effort to try to be conciliatory – **it has six parts, and I think if**
 6 **we just focus on the ones that deal with consumers in the state of Washington, that**
 7 **would be sufficient for our purposes.** THE COURT: Okay. All right. That’s very
 8 specific, and I appreciate that.”) (emphasis added). CXO attaches the portion of the
 9 transcript where this occurred.
 10
 11

12 CXO believes that the Court may have inadvertently included these requests in its
 13 Order on the Motion to Compel. CXO requests that the Court modify the Order so that it
 14 is consistent with what Plaintiffs’ counsel actually conceded and requested at the hearing.
 15 That is, CXO requests that the Court modify its Order to remove Request No. 3, the
 16 portion of Request No. 5 regarding the United States, and subparts (a) and (d) from
 17 Interrogatory No. 3 regarding United States.
 18
 19

20 CXO’s counsel has attempted to confer with Plaintiffs’ counsel regarding this
 21 Motion to Modify in Part and Plaintiffs’ counsel is opposed to this Motion to Modify in
 22 Part.
 23
 24

Conclusion and Prayer

For the foregoing reasons, CXO respectfully requests that the Court sign the attached Order modifying its prior Order to reflect what Plaintiffs' counsel conceded and requested at the hearing.

Respectfully submitted this 23rd day of March, 2018.

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1 I hereby certify that on March 23, 2018, I electronically filed the foregoing with
2 the Clerk of the Court using the CM/ECF System which will send notification of such
3 filing to the following:
4

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